



Fletcher, Heald & Hildreth

ORIGINAL

ROBERT J. BUTLER
 HARRY F. COLE
 ANNE GOODWIN CRUMP
 DONALD J. EVANS
 JUSTIN L. FAULB
 PAUL J. FELDMAN
 KEVIN M. GOLDBERG
 DAVID M. JANET
 FRANK R. JAZZO
 M. SCOTT JOHNSON
 DANIEL A. KIRKPATRICK
 TONY S. LEE
 CHENG-YI LIU
 STEPHEN T. LOVELADY
 ASHLEY LUDLOW
 JONATHAN R. MARKMAN
 SUSAN A. MARSHALL
 MICHELLE A. McCCLURE
 MATTHEW H. McCORMICK
 FRANCISCO R. MONTERO
 RAYMOND J. QUIANZON
 DAVINA SASHKIN
 PETER TANNENWALD
 JAMES U. TROUP
 KATHLEEN VICTORY

1300 NORTH 17th STREET, 11th FLOOR
 ARLINGTON, VIRGINIA 22209

OFFICE: (703) 812-0400
 FAX: (703) 812-0486
 www.fhhlaw.com
 www.commlawblog.com

RETIRED MEMBERS
 VINCENT J. CURTIS, JR.
 RICHARD HILDRETH
 HARRY C. MARTIN
 GEORGE PETRUTSAS
 JAMES P. RILEY

OF COUNSEL
 THOMAS J. DOUGHERTY, JR.
 ROBERT M. GURSS*
 KATHRYN A. KLEIMAN
 MITCHELL LAZARUS
 ROBERT J. SCHILL
 LAURA A. STEFANI
 ROBERT M. WINTERINGHAM

DOCKET FILE COPY ORIGINAL

January 15, 2016

* NOT ADMITTED IN VIRGINIA

Accepted/Files

JAN 15 2016

Federal Communications Commission
 Office of the Secretary

ASHLEY LUDLOW
 (703) 812-0423
 LUDLOW@FHHLAW.COM

VIA HAND DELIVERY

Marlene H. Dortch, Secretary
 Federal Communications Commission
 Office of the Secretary
 445 12th Street, SW
 Washington, DC 20554

Attn: Audio Division, Media Bureau
 Re: Petition for Rulemaking, Red Lake Nation

Dear Ms. Dortch:

On behalf of Red Lake Nation, submitted herewith, is a copy of the Petition for Rulemaking inadvertently filed through ECFS on November 17, 2015 as reflected on the ECFS filing receipt, also enclosed.

If there are any questions about the filing, please contact the undersigned.

Sincerely,

Ashley Ludlow

Enclosures

cc: Nazifa Sawez (w/enc.)

FLETCHER, HEALD & HILDRETH, P.L.C.

No. of Copies rec'd 044
 List ABCDE
MB - Audio
15-14

Before the
Federal Communications Commission
 Washington, D.C. 20554

In the Matter of)

Amendment of Section 73.202(b),)
 Table of Allotments,)
 FM Broadcast Stations.)
 (Channel 287C1))

MB Docket No. _____
 RM- _____

Accepted/Files

To: Office of the Secretary
 Attention: Chief, Audio Division
 Media Bureau

JAN 15 2016

Federal Communications Commission
 Office of the Secretary

PETITION FOR RULEMAKING

The Red Lake Nation ("Red Lake Nation" or "Band"), a recognized Native American entity, by its attorneys, hereby petitions the Federal Communications Commission ("FCC" or "Commission") to initiate a Rulemaking Proceeding to amend Section 73.202(b), 47 C.F.R. § 73.202(b) of the Commission's Rules, the FM Table of Allotments, to add the following Tribal Allotment. The Red Lake Nation requests that the allotted channel be assigned a Tribal Priority and that its pending application be processed in accordance with Section 73.3573 of the Commission's Rules.

CITY	CHANNEL	STATION CLASS
Red Lake, MN	287	C1

Simultaneously with the filing of this Petition for Rulemaking, Red Lake Nation has also filed a complete FCC Form 301 application seeking authorization for this proposed new allotment consistent with the Commission's Rules.

The Red Lake Nation is located in northwest Minnesota on indigenous land covering roughly 996 square miles. It is approximately 120 miles from the Canadian border and 25 miles north of Bemidji, MN. There are four distinct communities within the Red Lake borders: Red

Lake, Redby, Little Rock, and Ponemah. Red Lake, the largest of the four communities, is home to the tribal government, high school, hospital, clinic, nursing home, and Red Lake Nation College. According to the Red Lake Nation enrollment department, the population of Red Lake citizens as of May 2015 was 11,696.

The Red Lake Nation adopted its first Constitution in 1918, revised in 1958, which forms the basis of the Red Lake Nation government structure, an eleven member Tribal Council consisting of three officers elected at large and eight council members, two from each of the four communities. Seven Hereditary Chiefs, descendants from those who negotiated the 1889 Land Agreement, serve for life in an advisory capacity to the Tribal Council.

As illustrated in the Engineering Statement, attached hereto and to the Form 301 application, the proposed allotment of Channel 287C1 to Red Lake, Minnesota, at reference coordinates 47-59-00 N, 95-33-33 W, can be authorized in full compliance with the Commission's Rules. This allotment reference site for Channel 287C1 meets the mileage separation requirements of Section 73.207, 47 C.F.R. § 73.207, to all domestic licensed, proposed, or applied-for facilities. Additionally, at the aforementioned reference coordinates, the community of Red Lake, Minnesota, is completely within the Principal Community Contour of the proposed facility.

The Red Lake Nation is eligible for a Tribal Priority in Red Lake, Minnesota. Based on the Band's qualifications as a Native American applicant and the Tribal Priority adopted by the Commission, the Red Lake Nation's proposal fundamentally meets the eligibility¹ criteria for the Tribal Priority, and to the extent it does not, a waiver of the rules is respectfully requested.

The Commission's Tribal Priority rules require the following: (1) at least 50% of the area within the 70 dBu is over the Tribe's Tribal Lands, or; (2) the 70 dBu (a) encompasses 50% or more of the Tribe's Tribal Lands, (b) serves at least 2,000 people living on Tribal Lands, and (c)

the total population on Tribal Lands residing within the proposed allotment's 60 dBu contour constitutes at least 50% of the total covered population. In the case of either (1) or (2), the proposed allotment's 70 dBu contour does not cover more than 50% of the Tribal Lands of a Tribe that is not a party to the application.

The proposed allotment is for a Class C1 FM channel. As a preliminary matter, the proposed allotment's 70 dBu contour does not cover more than 50% of the Tribal Lands of a Tribe that is not a party to the application. The proposed 70 dBu contour of the allotment encompasses greater than 77% of the Red Lake Nation's designated legal boundaries. However, a Class C1 maximum allotment creates a large 70 dBu service area of which the Red Lake Nation's designated legal boundaries represent approximately 26%. While the Red Lake Nation's legal boundaries are very large, covering approximately 636,954 square acres, the area is not large enough to represent 50% of the area within the proposed allotment 70 dBu contour as required by prong (1) of the Tribal Priority rule.

Under prong (2) of the Tribal Priority rule, the proposed 70 dBu contour encompasses greater than 77% of the Tribal Lands and serves well in excess of the minimum 2,000 people living on Tribal Lands, covering a population of 11,696 people. However, the total population on Tribal Lands residing within the proposed allotment's 60 dBu contour constitutes less than 50% of the total covered population.¹ A waiver of subpart (c) of prong (2) of the Tribal Priority requirements is therefore respectfully requested.

The Red Lake Nation's legal boundaries are very large, covering approximately 636,954 square acres and a native nation of just shy of 12,000 people. The Class C1 allotment reference

¹ The proposed allotment reference would provide 60 dBu service to a total population of 61,725 people. The total population on Tribal Lands within the 60 dBu is 11,696 people. The proposed allotment reference would provide 70 dBu service to a total population of 30,896 people.

point is proffered as the best hypothetical point to provide meaningful coverage to the Red Lake Nation and meet domestic and international protection standards to other stations and assignments. A maximum Class C1 allotment produces a hypothetical 60 dBu service area that is very large, picking up additional population on the fringe of the service area, and skewing population totals. Producing such a hypothetical maximum Class C1 in this case would require a tower in excess of 1,000 feet, which is not economically feasible. However, a Class C1 allotment is requested in order to provide the requisite coverage to the Red Lake Nation and the Community of License of Red Lake. For these reasons, the Red Lake Nation respectfully requests waiver of subpart (c) of prong (2) of the Tribal Priority requirements. Acceptance of the proposal will result in over 77% of the area within the proposed allotment's principal community contour covering Red Lake Nation land; Red Lake, the proposed community of license located on Red Lake Nation land, will be 100% covered with a 70 dBu contour; and the proposed facility would be the first local tribally-owned commercial transmission service at the proposed community of license.

This request to amend the FM Table of Allotments and grant a Tribal Priority to the Red Lake Nation would advance the Commission's goal of increasing broadcast service on tribal lands and would serve the public interest goals of Section 307(b) of the Communications Act of 1934. As illustrated in the Engineering Statement in the application (Exhibits 27 and 28), the proposed Channel 287C1 transmitter site for the Red Lake assignment will provide 70 dBu and 60 dBu contour service to 21,089 and 66,789 persons, respectively.²

² The proposed allotment at maximum 287C1 would provide 70 dBu and 60 dBu coverage to 30,896 and 61,725 persons, respectively.

Conclusion

In view of the foregoing, the Red Lake Nation respectfully requests that the Commission adopt the proposed allotment of Channel 287C1 at Red Lake, Minnesota, with a Tribal Preference. Adoption of the proposal will serve the public interest and advance the Commission's tribal allotment priorities.

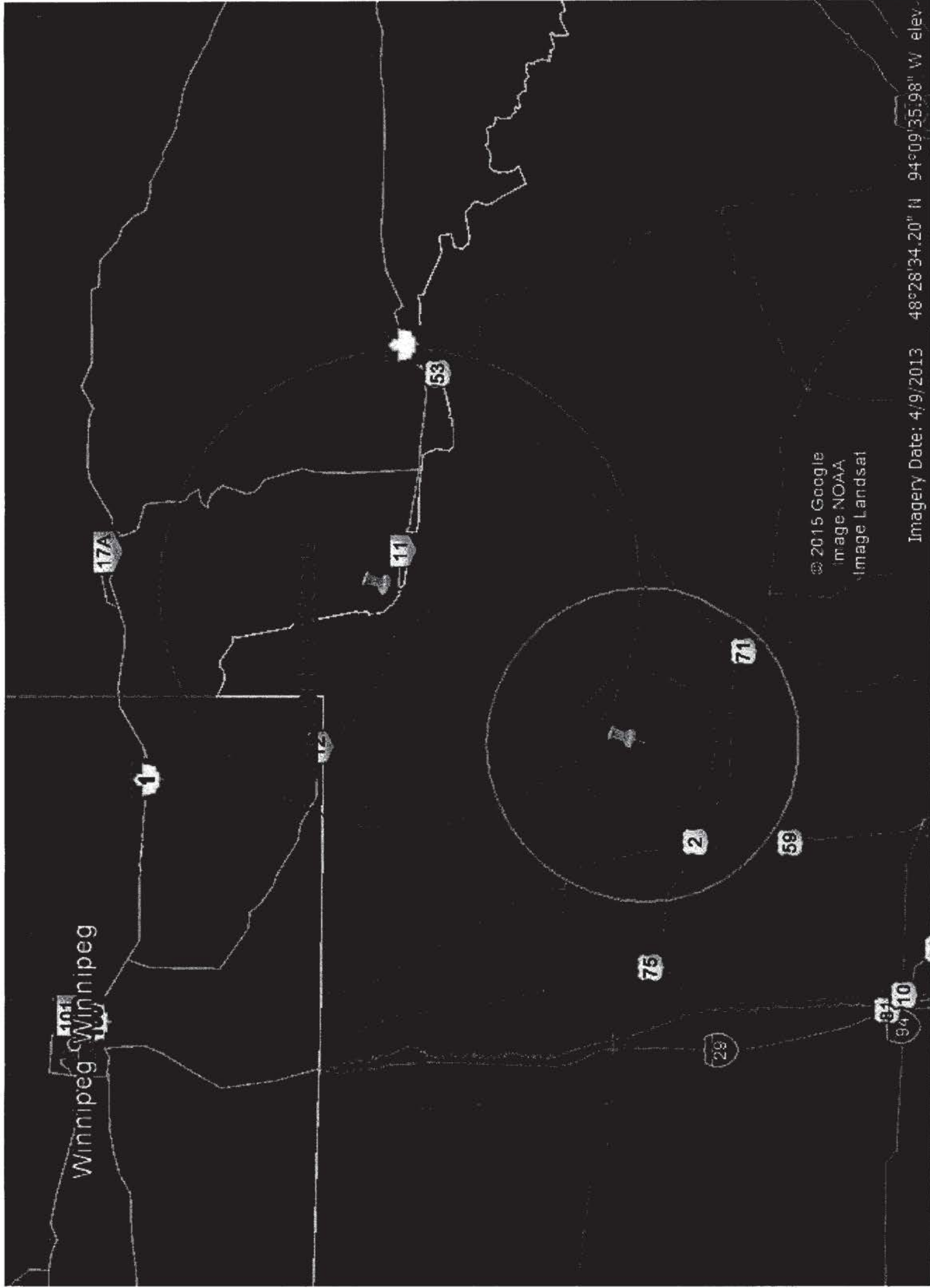
Should the Commission allot Channel 287C1 to Red Lake, the Red Lake Nation will prosecute its pending application and, if awarded the Construction Permit for the newly assigned facility, will promptly construct the station.

Respectfully submitted,

RED LAKE NATION

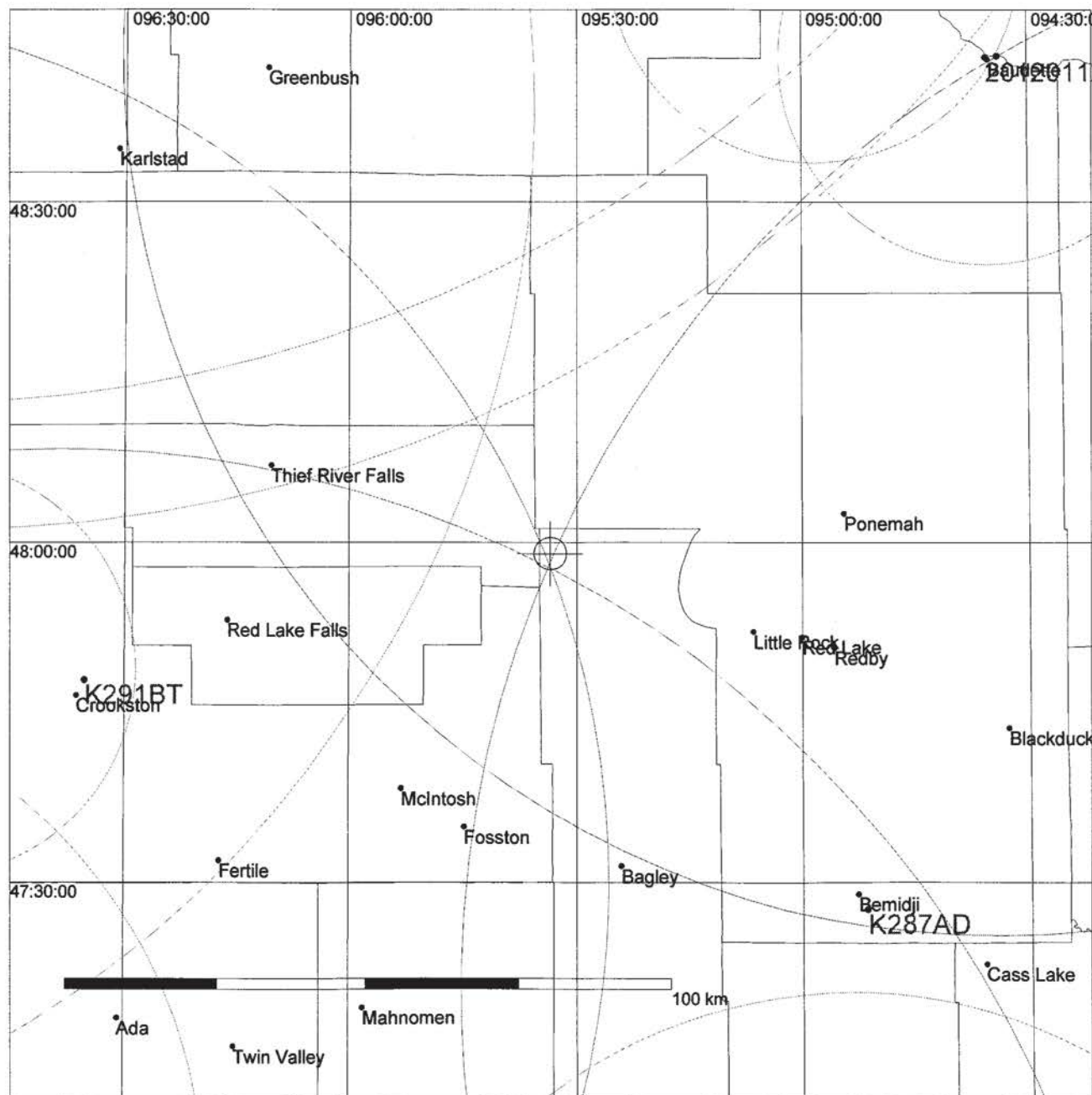
By: 
Frank R. Jazzo, Esq.
Ashley Ludlow, Esq.
Fletcher, Heald & Hildreth, P.L.C.
1300 North 17th Street
11th Floor
Arlington, VA 22209
(703) 812-0470 (Telephone)
(703) 812-0486 (Facsimile)
jazzo@fhhlaw.com

Dated: November 17, 2015



© 2015 Google
Image NOAA
Image Landsat

Imagery Date: 4/9/2013 48°28'34.20" N 94°09'35.98" W elev



Page 1 of 1

Date: 9/14/2015 8:01:23 PM

DeLaHunt Communications

rfDetective-FM Version 1.11.0

Job: Red Lake Allotment.fmj

Master Database: 2015_Sep_01
.fmd

Lat: N47:59:00 Lon: W095:33:3
3

Scale: 1:1000000

Channel: 287 Class: C1

Status: Licensed, Construction
Permit, Application, Addition, Va
cant/Reserved, Deleted

Channels: Primary, 1st Adj, 2nd
Adj, 3rd Adj, IF, TV6

Range: 100 km : Clearance = F
CC

Comments: No Comments

Description:

Key:

Short

Close

Clear

Short/Directional

DeLaHunt Communications
 Job: Red Lake Allotment.fmj
 Master Database: 2015_Sep_01.fmd
 Lat: N47:59:00 Lon: W095:33:33
 Channel: 287 Class: C1

Page 1 of 2
 Date: 9/14/2015 8:01:43 PM
 rfDetective-FM Version 1.11.0

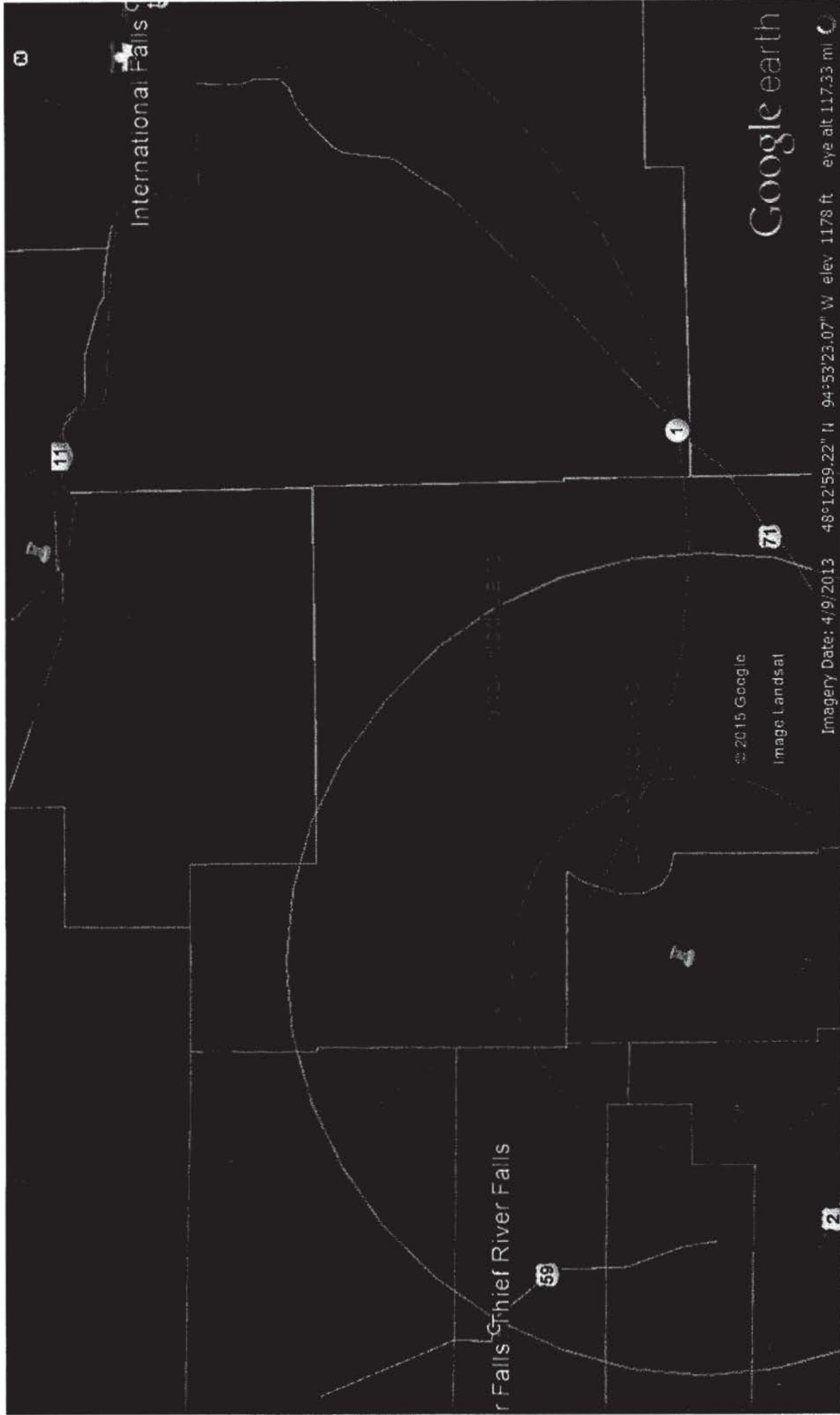
Status: Licensed, Construction Permit, Application, Addition, Vacant/Reserved, Deleted
 Channels: Primary, 1st Adj, 2nd Adj, 3rd Adj, IF, TV6
 Range: 100 km
 Comments: No Comments
 Description:

Callsign	Latitude	Longitude	City	State	Service	Channel	Class	Intl Class	Status	Adjacency	Min Separation	Distance	Clearance	Bearing	ERP	HAAT	ERP Vert
	N48:43:00	W094:34:00	RAINY RIVER	ON	FM	285 : 104C	C			2nd Adj	144	109.82	-34.18	042	0.00	0	0
KBAJ	N47:20:22	W093:23:48	DEER RIVER	MN	FM	288 : 105C1	C1		LIC	1st Adj	177	177.51	0.51	114	100.0	155	100
KMAV-FM	N47:29:57	W097:21:03	MAYVILLE	ND	FM	288 : 105C3			LIC	1st Adj	144	144.76	0.76	248	25.00	100	25
KQWB-FM	N46:32:46	W096:37:39	BRECKENRIDG	MN	FM	286 : 105C1			LIC	1st Adj	177	179.08	2.08	207	100.0	201	100
KAOC	N48:38:38	W097:58:46	CAVALIER	ND	FM	286 : 105C1	C1		LIC	1st Adj	177	193.97	16.97	292	100.0	233	100
	N49:58:16	W096:54:46	SELKIRK	MB	FM	288 : 105C1	C1			1st Adj	217	242.25	25.25	336	0.00	0	0
CICY-FM	N50:09:24	W096:58:38	SELKIRK	MB	FM	288 : 105C1	C1			1st Adj	217	262.97	45.97	337	100.0	107	100
KZGF	N47:48:49	W096:55:48	GRAND FORKS	ND	FM	234 : 94. C1			LIC	IF	34	104.23	70.23	260	100.0	104	100
20120529AJK	N48:51:49	W094:58:22	BAUDETTE	MN	FM	233 : 94. C1	C1		APP	IF	34	107.08	73.08	024	100.0	120	100
20120112AGZ	N48:42:52	W094:35:32	BAUDETTE	MN	FM	233 : 94. C1			APP	IF	34	108.38	74.38	041	0.00	0	0
	N48:42:52	W094:35:32	BAUDETTE	MN	FM	233 : 94. C1	C1		VAC	IF	34	108.38	74.38	041	0.00	0	0
K287AD	N47:27:37	W094:51:31	BEMIDJI	MN	FM	287 : 105			LIC	Primary	0	78.39	78.39	138	0.25	0	0.25
K291BT	N47:47:51	W096:35:17	GRAND FORKS	ND	FM	289 : 105			CP MO	2nd Adj	0	79.67	79.67	255	0.25	0	0.25
KKWS	N46:35:59	W094:54:04	WADENA	MN	FM	290 : 105C1			LIC	3rd Adj	82	161.68	79.68	162	100.0	171	100
KMJO	N47:03:15	W097:24:44	HOPE	ND	FM	284 : 104C1			LIC	3rd Adj	82	173.64	91.64	233	100.0	214	100

DeLaHunt Communications
 Job: Red Lake Allotment.fmj
 Master Database: 2015_Sep_01.fmd
 Lat: N47:59:00 Lon: W095:33:33
 Channel: 287 Class: C1
 Status: Licensed, Construction Permit, Application, Addition, Vacant/Reserved, Deleted
 Channels: Primary, 1st Adj, 2nd Adj, 3rd Adj, IF, TV6
 Range: 100 km
 Comments: No Comments
 Description:

Page 2 of 2
 Date: 9/14/2015 8:01:43 PM
 rfDetective-FM Version 1.11.0

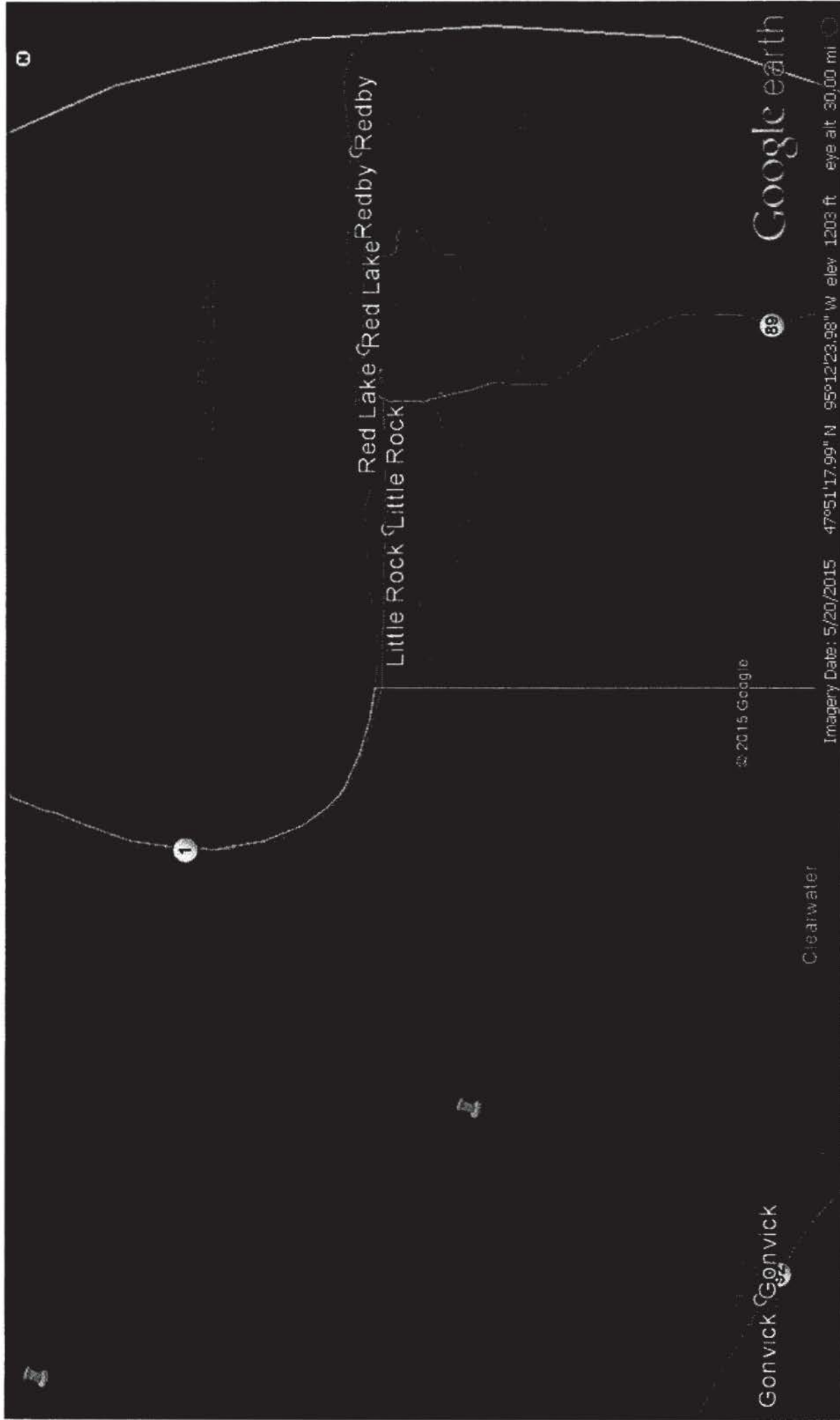
ASD Service	Facility ID	Owner
FA	94876	
FM	26005	RED ROCK RADIO CORP.
FM	54335	KMSR, INC.
FM	64359	RADIO FARGO-MOORHEA
FM	56712	SIMMONS BROADCASTIN
FR	-1	
FM	165755	
FM	54593	LEIGHTON ENTERPRISES,
FM	190437	PASKVAN MEDIA, INC.
FM	190437	PASKVAN MEDIA, INC.
FA	0	
FX	49542	LEECH LAKE BAND OF OJI
FX	143360	GOPHER COMMUNICATIO
FM	28650	HBI RADIO BRAINERD/WA
FM	88502	MIDWEST COMMUNICATI



Google earth

© 2015 Google
Image Landsat

Imagery Date: 4/9/2013 48°12'59.22" N 94°53'23.07" W elev 1178 ft eye alt 117.33 mi



nd Forks

59

2

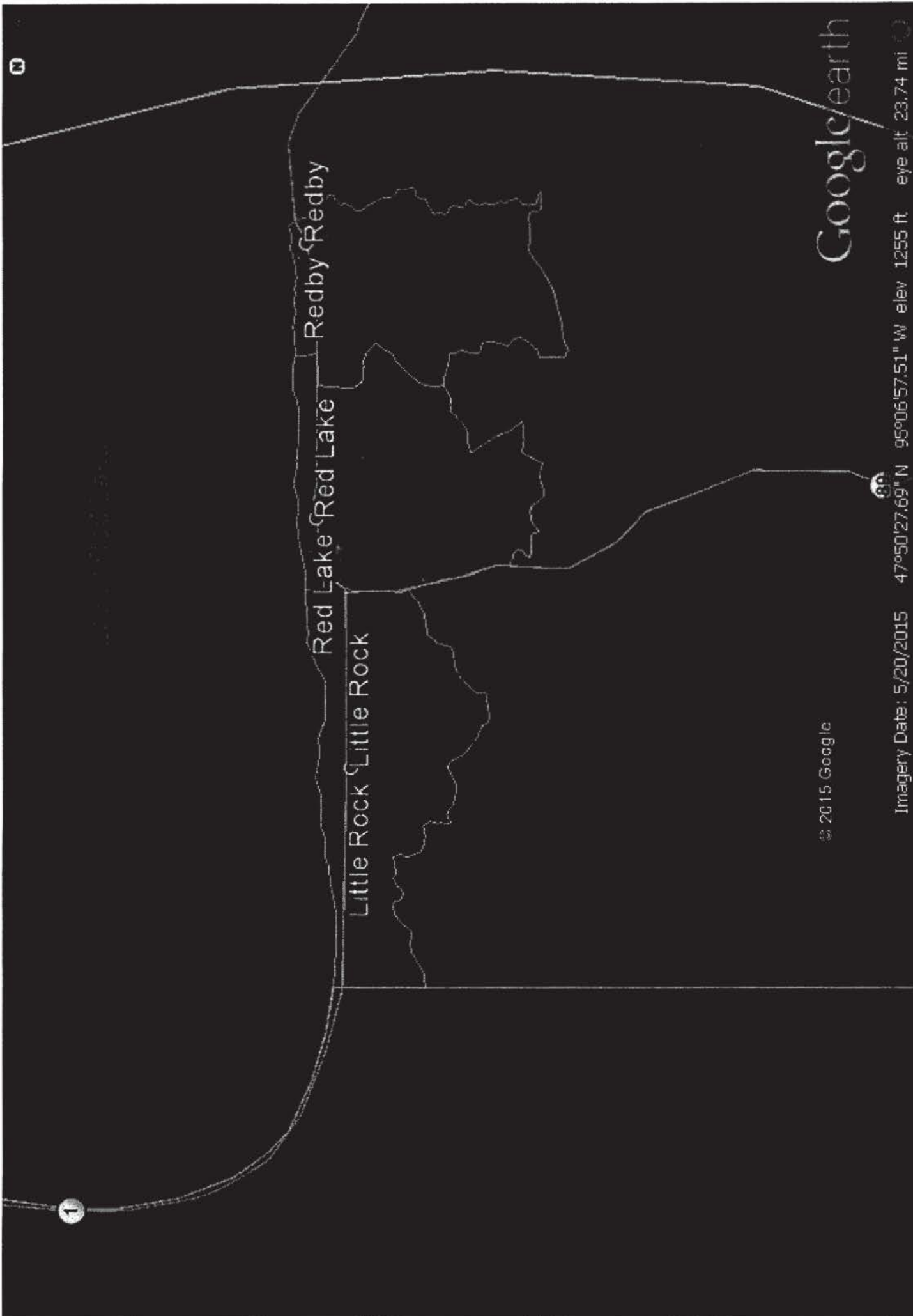
75

71

Image Landsat
© 2015 Google

Imagery Date: 4/9/2013 2013 47°48'59.99" N 95°25'00.00" W elev 1196 ft

Go

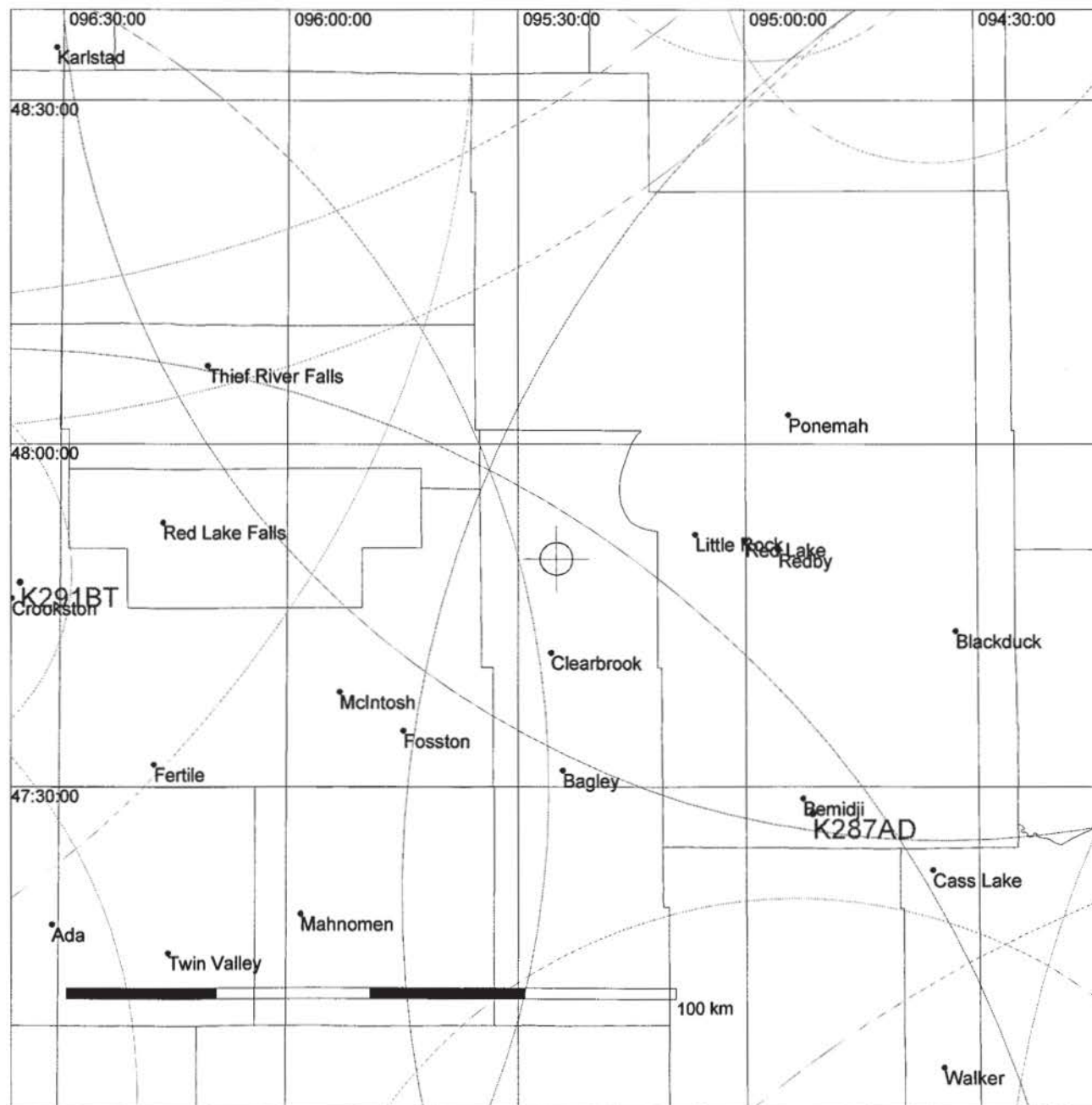


© 2015 Google

Google/earth

Imagery Date: 5/20/2015

47°50'27.69" N 95°06'57.51" W elev 1255 ft eye alt 23.74 mi



Page 1 of 1

Date: 9/14/2015 8:03:38 PM

DeLaHunt Communications

rfDetective-FM Version 1.11.0

Job: Red Lake Nation App Site.f
mj

Master Database: 2015_Sep_01
.fmd

Lat: N47:49:55 Lon: W095:25:0
1

Scale: 1:1000000

Channel: 287 Class: C1

Status: Licensed, Construction
Permit, Application, Addition, Va
cant/Reserved, Deleted

Channels: Primary, 1st Adj, 2nd
Adj, 3rd Adj, IF, TV6

Range: 100 km : Clearance = F
CC

Comments: No Comments

Description:

Key:

Short

Close

Clear

Short/Directional

DeLaHunt Communications
 Job: Red Lake Nation App Site.fmj
 Master Database: 2015_Sep_01.fmd
 Lat: N47:49:55 Lon: W095:25:01
 Channel: 287 Class: C1

Page 1 of 2
 Date: 9/14/2015 8:03:57 PM
 rfDetective-FM Version 1.11.0

Status: Licensed, Construction Permit, Application, Addition, Vacant/Reserved, Deleted
 Channels: Primary, 1st Adj, 2nd Adj, 3rd Adj, IF, TV6
 Range: 100 km
 Comments: No Comments
 Description:

Callsign	Latitude	Longitude	City	State	Service	Channel	Class	Intl Class	Status	Adjacency	Min Separation	Distance	Clearance	Bearing	ERP	HAAT	ERP Vert
	N48:43:00	W094:34:00	RAINY RIVER	ON	FM	285 : 104C	C			2nd Adj	144	116.88	-27.12	033	0.00	0	0
KBAJ	N47:20:22	W093:23:48	DEER RIVER	MN	FM	288 : 105C1	C1		LIC	1st Adj	177	161.54	-15.46	110	100.0	155	100
KQWB-FM	N46:32:46	W096:37:39	BRECKENRIDG	MN	FM	286 : 105C1			LIC	1st Adj	177	169.86	-7.14	213	100.0	201	100
KMAV-FM	N47:29:57	W097:21:03	MAYVILLE	ND	FM	288 : 105C3			LIC	1st Adj	144	149.89	5.89	256	25.00	100	25
KAOC	N48:38:38	W097:58:46	CAVALIER	ND	FM	286 : 105C1	C1		LIC	1st Adj	177	210.68	33.68	295	100.0	233	100
	N49:58:16	W096:54:46	SELKIRK	MB	FM	288 : 105C1	C1			1st Adj	217	261.96	44.96	335	0.00	0	0
K287AD	N47:27:37	W094:51:31	BEMIDJI	MN	FM	287 : 105			LIC	Primary	0	58.89	58.89	135	0.25	0	0.25
KKWS	N46:35:59	W094:54:04	WADENA	MN	FM	290 : 105C1			LIC	3rd Adj	82	142.46	60.46	164	100.0	171	100
CICY-FM	N50:09:24	W096:58:38	SELKIRK	MB	FM	288 : 105C1	C1			1st Adj	217	282.62	65.62	336	100.0	107	100
KZGF	N47:48:49	W096:55:48	GRAND FORKS	ND	FM	234 : 94. C1			LIC	IF	34	113.32	79.32	269	100.0	104	100
	N48:42:52	W094:35:32	BAUDETTE	MN	FM	233 : 94. C1	C1		VAC	IF	34	115.66	81.66	032	0.00	0	0
20120112AGZ	N48:42:52	W094:35:32	BAUDETTE	MN	FM	233 : 94. C1			APP	IF	34	115.66	81.66	032	0.00	0	0
20120529AJK	N48:51:49	W094:58:22	BAUDETTE	MN	FM	233 : 94. C1	C1		APP	IF	34	119.35	85.35	016	100.0	120	100
K291BT	N47:47:51	W096:35:17	GRAND FORKS	ND	FM	289 : 105			CP MO	2nd Adj	0	87.79	87.79	267	0.25	0	0.25
WRXP	N45:34:40	W093:12:56	CAMBRIDGE	MN	FM	287 : 105C3	B1		LIC	Primary	211	301.89	90.89	146	25.00	91	25
KMJO	N47:03:15	W097:24:44	HOPE	ND	FM	284 : 104C1			LIC	3rd Adj	82	173.57	91.57	240	100.0	214	100
KDLB	N46:48:24	W095:46:23	FRAZEE	MN	FM	233 : 94. C3			LIC	IF	24	117.12	93.12	193	11.00	150	11
KKCB	N46:47:21	W092:06:51	DULUTH	MN	FM	286 : 105C1	C1		LIC	1st Adj	177	275.34	98.34	115	100.0	241	100

DeLaHunt Communications

Job: Red Lake Nation App Site.fmj

Master Database: 2015_Sep_01.fmd

Lat: N47:49:55 Lon: W095:25:01

Channel: 287 Class: C1

Status: Licensed, Construction Permit, Application, Addition, Vacant/Reserved, Deleted

Channels: Primary, 1st Adj, 2nd Adj, 3rd Adj, IF, TV6

Range: 100 km

Comments: No Comments

Description:

ASD Service Facility ID Owner

FA	94876	
FM	26005	RED ROCK RADIO CORP.
FM	64359	RADIO FARGO-MOORHEA
FM	54335	KMSR, INC.
FM	56712	SIMMONS BROADCASTIN
FR	-1	
FX	49542	LEECH LAKE BAND OF OJI
FM	28650	HBI RADIO BRAINERD/WA
FM	165755	
FM	54593	LEIGHTON ENTERPRISES,
FA	0	
FM	190437	PASKVAN MEDIA, INC.
FM	190437	PASKVAN MEDIA, INC.
FX	143360	GOPHER COMMUNICATIO
FM	54838	RADIO LICENSE HOLDING
FM	88502	MIDWEST COMMUNICATI
FM	49094	RADIO FARGO-MOORHEA
FM	49686	TOWNSQUARE MEDIA DU

Page 2 of 2

Date: 9/14/2015 8:03:57 PM

rfDetective-FM Version 1.11.0

SPRINGS OF THE WOODS

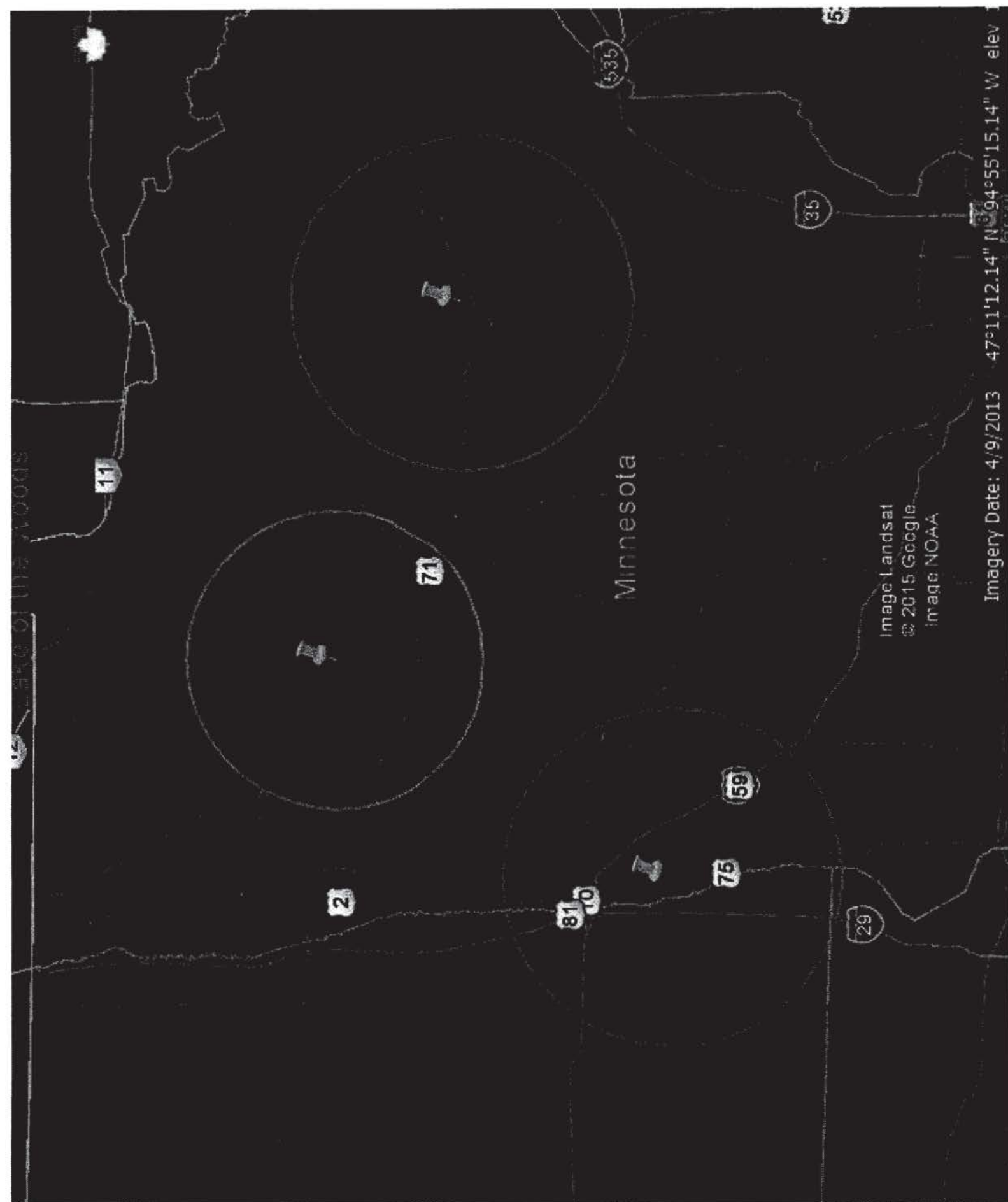


Image Landsat
© 2015 Google
Image NOAA

Imagery Date: 4/9/2013 47°11'12.14" N 94°55'15.14" W elev 1

Your submission has been accepted

**ECFS Filing Receipt -
Confirmation number:
20151117877763**
Proceeding

Name	Subject
INBOX-1.401	Petition For Rulemaking

Contact Info

Name of Filer: Red Lake Nation
Email Address: jazzo@fhhlaw.com
Attorney/Author Name: Frank R. Jazzo
Lawfirm Name (required if represented by counsel): Fletcher, Heald & Hildreth, P.L.C.

Address

Address For: Law Firm
Address Line 1: 1300 North 17th Street
Address Line 2: 11th Floor
City: Arlington
State: VIRGINIA
Zip: 22209

Details

Type of Filing: PETITION FOR RULEMAKING

Document(s)

File Name	Custom Description	Size
Signed Red Lake Nation Petition for Rulemaking.pdf	Red Lake Nation Petition for Rulemaking	9 MB

Disclaimer

This confirmation verifies that ECFS has received and accepted your filing. However, your filing will be rejected by ECFS if it contains macros, passwords, redlining, read-only formatting, a virus, or automated links to other documents.

Filings are generally processed and made available for online viewing within one business day of receipt. You may use the link below to check on the status of your filing:

<http://apps.fcc.gov/ecfs/comment/confirm?confirmation=20151117877763>

For any problems please contact the Help Desk at 202-418-0193.